

§ 1045.610

40 CFR Ch. I (7–1–12 Edition)

the vessel obscures the engine's emission control information label, the vessel manufacturer must attach duplicate labels, as described in 40 CFR 1068.105.

(7) Send the Designated Compliance Officer a signed letter by the end of each calendar year (or less often if we tell you) with all the following information:

(i) Identify your full corporate name, address, and telephone number.

(ii) List the engine or vessel models you expect to produce under this exemption in the coming year and describe your basis for meeting the sales restrictions of paragraph (d)(3) of this section.

(iii) State: "We produce each listed [engine or vessel] model without making any changes that could increase its certified emission levels, as described in 40 CFR 1045.605."

(e) *Failure to comply.* If your engines do not meet the criteria listed in paragraph (d) of this section, they will be subject to the standards, requirements, and prohibitions of this part 1045 and the certificate issued under 40 CFR part 86 or 1048 will not be deemed to also be a certificate issued under this part 1045. Introducing these engines into U.S. commerce without a valid exemption or certificate of conformity under this part violates the prohibitions in 40 CFR 1068.101(a)(1).

(f) *Data submission.* We may require you to send us emission test data on one of the duty cycles specified in subpart F of this part.

(g) *Participation in averaging, banking and trading.* Engines adapted for marine use under this section may not generate or use emission credits under this part 1045. These engines may generate credits under the ABT provisions in 40 CFR part 86. These engines must use emission credits under 40 CFR part 86 if they are certified to an FEL above a standard that applies under 40 CFR part 86.

§ 1045.610 What provisions apply to using engines already certified to Small SI emission standards?

This section applies to marine engines that are identical to land-based engines certified under 40 CFR part 90 or 1054. See § 1045.605 for provisions that

apply to marine engines that are certified under other programs.

(a) If an engine meets all the following criteria, it is exempt from the requirements of this part:

(1) The engine must be in an engine family that has a valid certificate of conformity showing that it meets emission standards for nonhandheld engines under 40 CFR part 90 or 1054 for the appropriate model year.

(2) You must show that fewer than 5 percent of the engine family's total sales in the United States are used in marine applications. This includes engines used in any application without regard to which company manufactures the vessel or equipment.

Show this as follows:

(i) If you are the original manufacturer of the engine, base this showing on your sales information.

(ii) In all other cases, you must get the original manufacturer of the engine to confirm this based on its sales information.

(b) The only requirements or prohibitions from this part that apply to an engine that meets the criteria in paragraph (a) of this section are in this section.

(c) Engines exempted under this section are subject to all the requirements affecting engines under 40 CFR part 90 or 1054. The requirements and restrictions of 40 CFR part 90 or 1054 apply to anyone manufacturing these engines, anyone manufacturing equipment that uses these engines, and all other persons in the same manner as if these engines were not used as propulsion marine engines.

(d) You may use the provisions of § 1045.605 in addition to the provisions of this section for engines certified under 40 CFR part 1054. Where § 1045.605 references 40 CFR parts 85, 86, and/or 1048, apply the applicable provisions of 40 CFR part 1054 instead. Include the engines you sell under this section in your demonstration that you meet the sales limit in § 1045.605(d)(3).

§ 1045.620 What are the provisions for exempting engines used solely for competition?

The provisions of this section apply for new engines and vessels built on or after January 1, 2010.

(a) We may grant you an exemption from the standards and requirements of this part for a new engine on the grounds that it is to be used solely for competition. The requirements of this part, other than those in this section, do not apply to engines that we exempt for use solely for competition.

(b) We will exempt engines that we determine will be used solely for competition. The basis of our determination is described in paragraphs (c) and (d) of this section. Exemptions granted under this section are good for only one model year and you must request renewal for each subsequent model year. We will not approve your renewal request if we determine the engine will not be used solely for competition.

(c) Engines meeting all the following criteria are considered to be used solely for competition:

(1) Neither the engine nor any vessels containing the engine may be displayed for sale in any public dealership or otherwise offered for sale to the general public. Note that this does not preclude display of these engines as long as they are not available for sale to the general public.

(2) Sale of the vessel in which the engine is installed must be limited to professional racing teams, professional racers, or other qualified racers. For replacement engines, the sale of the engine itself must be limited to professional racing teams, professional racers, other qualified racers, or to the original vessel manufacturer.

(3) The engine and the vessel in which it is installed must have performance characteristics that are substantially superior to noncompetitive models.

(4) The engines are intended for use only as specified in paragraph (e) of this section.

(d) You may ask us to approve an exemption for engines not meeting the criteria listed in paragraph (c) of this section as long as you have clear and convincing evidence that the engines will be used solely for competition.

(e) Engines are considered to be used solely for competition only if their use is limited to competition events sanctioned by the U.S. Coast Guard or another public organization with authorizing permits for participating com-

petitors. Operation of such engines may include only racing events, trials to qualify for racing events, and practice associated with racing events. Authorized attempts to set speed records are also considered racing events. Engines will not be considered to be used solely for competition if they are ever used for any recreational or other non-competitive purpose. Use of exempt engines in any recreational events, such as poker runs and lobsterboat races, is a violation of 40 CFR 1068.101(b)(4).

(f) You must permanently label engines exempted under this section to clearly indicate that they are to be used only for competition. Failure to properly label an engine will void the exemption for that engine.

(g) If we request it, you must provide us any information we need to determine whether the engines are used solely for competition. This would include documentation regarding the number of engines and the ultimate purchaser of each engine as well as any documentation showing a vessel manufacturer's request for an exempted engine. Keep these records for five years.

§ 1045.625 What requirements apply under the Diurnal Transition Program?

The provisions of this section allow vessel manufacturers to produce a certain number of vessels with installed fuel tanks that do not meet the diurnal emission standards specified in § 1045.112(d) and 40 CFR 1060.105. The provisions of this section do not apply for portable marine fuel tanks, personal watercraft, or outboard engines with under-cowl fuel tanks. Vessels you produce under this section are exempt from the prohibitions in 40 CFR 1068.101(a)(1) with respect to diurnal emissions, subject to the provisions of this section.

(a) *General.* If you are a vessel manufacturer, you may introduce into U.S. commerce limited numbers of exempted vessels under this section. You may use the exemptions in this section only if you have primary responsibility for designing and manufacturing vessels and your manufacturing procedures include installing some engines in these vessels. Consider all U.S.-directed vessel sales in showing that you meet the